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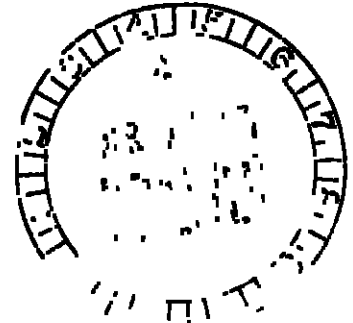
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April 2, 2007

HAND DELIVERY

The Honorable Vernon A. Williams
Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423

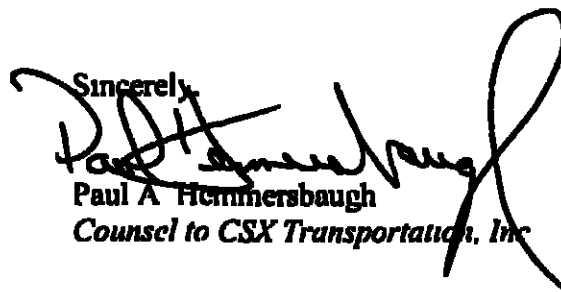
Re STB Ex Parte 661 (Sub-No. 1)

Dear Secretary Williams

Enclosed, for filing in the above-referenced proceeding, please find the original and ten copies of the Comments Of CSX Transportation, Inc. Regarding Proposed Fuel Surcharge Reporting Rules, in STB Ex Parte 661 (Sub-No. 1). We have also enclosed a CD containing an electronic copy of those comments. Please file-stamp the enclosed extra copies and return them with our messenger.

Thank you for your assistance in this matter. If you have any questions regarding this filing, please contact the undersigned.

Sincerely,



Paul A. Hemmersbaugh
Counsel to CSX Transportation, Inc.

Enclosures

cc: Service list

**UNITED STATES OF AMERICA
SURFACE TRANSPORTATION BOARD**



STB Ex Parte No 661 (Sub-No 1)

RAIL FUEL SURCHARGES

**COMMENTS OF CSX TRANSPORTATION, INC. REGARDING
PROPOSED FUEL SURCHARGE REPORTING RULES**

ENTERED
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Part of
Public Record

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Attorneys for CSX Transportation Inc

Dated April 2, 2007

CSX Transportation, Inc. ("CSXT") respectfully submits these comments regarding the Board's proposed rules requiring Class I railroads to report certain information regarding fuel costs and revenues. See Decision, STB Ex Parte No. 661 (Sub-No. 1) (served Jan. 26, 2007) (the "NPRM").

CSXT generally supports the Board's revised reporting proposals, and appreciates that the Board has revised its original proposal in order to reduce the burden of the proposed reporting requirements. See *id.* at 3. These comments (1) request that the Board allow quarterly, rather than monthly, reporting; and (11) clarify a few details regarding CSXT's intended reporting approach.

I. THE RULES SHOULD ALLOW QUARTERLY REPORTING, WHICH IS CONSISTENT WITH OTHER REPORTS TO THE BOARD AND OTHER AGENCIES.

Reporting fuel information on a quarterly rather than monthly basis would be more consistent with other CSXT financial reports, and would reduce the likelihood of confusion and potentially misleading inter-period or inter-carrier comparisons. For example, CSX Corporation reports financial and accounting information to the Securities Exchange Commission ("SEC") and to the investing public, on a quarterly basis. Similarly, most of the financial and accounting reports required by the Board are submitted either annually (e.g., the R-1 report) or quarterly (e.g., quarterly condensed balance sheet, quarterly form RL&I, quarterly Wage Forms A & B). Reporting fuel cost and revenue information on a quarterly basis would be consistent with other quarterly reporting practices, produce data that better correlates with other reports to federal agencies and to the public, and would reduce the additional data-gathering, analysis, and reporting burdens and efforts required to generate monthly fuel reports.

Use of a quarterly reporting period for fuel data would also reduce the potential for confusion due to the fact that CSXT uses multi-week periods rather than calendar months for

fiscal reporting purposes. See Comments of CSXT, Appendix at A-1 to A-3 (Oct. 2, 2006)

CSXT uses a fiscal 52/53 week calendar for external reporting purposes. Consequently, each of CSXT's quarterly reporting periods consist of two four-week periods followed by a five-week period. These four- and five-week reporting periods are generally not the same length as calendar months. Therefore, review of data from a single CSXT period and other Class I carriers' calendar month period may result in inaccurate and misleading comparisons.¹ The use of quarters for reporting would reduce the potential for such erroneous comparisons and analyses. Because calendar quarters and CSXT's quarterly reporting period are closer to the same length (each approximately 13 weeks), quarterly reports would "smooth" the differences caused by varying lengths of monthly reporting periods, thereby reducing potential confusion. Similarly, use of a quarterly reporting period would reduce the potential for confusion by members of the investing public who might use monthly fuel reports to the Board for comparison with, or projection of, quarterly reports of similar data to the STC. Both for purposes of inter-carrier comparisons and for comparisons with reports to the STC, the use of quarterly fuel data reports by the Board would reduce potential confusion by customers, investors and the general public.

II. CLARIFICATIONS REGARDING REPORTING UNDER THE PROPOSED RULES.

CSXT believes it will be able to substantially comply with the purpose and goals of the reporting requirements proposed in the NPRM. In a few instances, however, the nature of CSXT's recordkeeping and operations may prevent precise technical compliance with some

¹ If, for example, a calendar month having four weeks coincides with a CSXT reporting period having five weeks, the CSXT report would include 25% more days than the monthly report submitted by a carrier that uses calendar month reporting. If everything else were held equal, CSXT's fuel consumption, cost, and revenue in that period would be 25% greater than a calendar month reporting carrier for an identical volume and mix of traffic.

details of the proposed rules. As discussed below, the slight variation from the express literal requirements of the rules should have no material effect on the utility of CSXT's reports or on the Board's ability to monitor CSXT's rail fuel surcharge practices.

A. CSXT Intends to Report Based on its Financial Reporting Period, not Calendar Months.

As CSXT previously explained, its finance and accounting periods consist of two four-week periods and one five-week period in each quarter. See CSXT Comments Appendix (Oct. 2, 2006). Because calendar months are generally between four and five weeks, the beginning and end of CSXT's reporting periods rarely coincide with those of the calendar months. If the Board decides to adhere to its proposal to require "monthly" reports, CSXT plans to submit reports for its most recently closed four- or five-week accounting period. Because one in three CSXT reporting periods is a week longer than the others, and because those periods rarely correspond precisely with calendar months, any comparison of CSXT's reported data between periods, or with other carriers, should be conducted with recognition of these reporting period differences.²

B. CSXT Intends to Report All Fuel Revenue Billed Rather Than Collected.

The NPRM proposes to require carriers to report fuel surcharge revenue for each period. CSXT understands that proposed provision would require reporting of fuel surcharge revenue earned and *billed* during the period, and *not* fuel surcharge revenue *collected* during that period. As in any business, CSXT's customers pay for rail transportation services – including fuel surcharges – at different times and on different schedules. Therefore, while CSXT can fairly readily determine the revenue it *billed* to its customers for fuel surcharges in a given period, it is

² CSXT intends to annotate its reports to the Board to expressly disclose the period to which the report applies, and to caution that differences in reporting periods may affect inter-period and inter-carrier comparisons.

difficult if not impossible to report in a timely manner how much fuel surcharge revenue the railroad actually *collected* for that period

CSXT believes that reporting revenue billed rather than collected better serves the purpose of the proposed rule – to determine how much it charged its customers in the form of fuel surcharges during the period in question. Reporting fuel surcharge revenue collections, on the other hand, would reflect rail customers' payment practices, which does not appear to be the Board's intention in this proceeding. Monitoring rail carrier fuel surcharge practices requires measuring the fuel surcharges those carriers assess, which is reflected in fuel surcharges billed by the carrier. Accordingly, CSXT intends to report fuel surcharge revenue billed in the reporting period.

CSXT also intends to report fuel surcharge revenue billed for all CSXT traffic – both regulated and exempt movements -- including both contract and tariff traffic. CSXT's accounting systems do not differentiate between fuel surcharges billed for traffic that moves under common carrier rate authority ("tariff" traffic), public exempt pricing circulars, and contracts. It would be very burdensome to manually attempt to segregate fuel surcharges for those different types of traffic, if it could be done at all. Because CSXT's fuel expenditure records also do not differentiate between contract and common carrier traffic, reporting fuel surcharges billed for both types of traffic should better facilitate meaningful comparisons.

C. CSXT Intends to Report Its Best Estimate of all Fuel Costs it Incurs in the Reporting Period.

CSXT intends to report its aggregate fuel cost for the reporting period, without differentiating between types of traffic (i.e. contract traffic versus tariff traffic or exempt traffic) or other uses of fuel. Those costs include, among other things, fuel taxes paid to several states in which CSXT operates.

CSXT intends to report state fuel taxes actually paid for the most recently closed period for all but one State, which requires that fuel taxes be paid quarterly. Therefore, if the Board requires monthly fuel surcharge reporting, CSXT will estimate the portion of its quarterly fuel tax obligation to that State that will be attributable to the most recently closed reporting period, subject to a "true-up" adjustment at the end of the quarter when CSXT determines and pays its quarterly fuel tax. Although this will necessarily be an estimate for the first two reporting periods of each quarter, CSXT anticipates that any deviation from the prorated "monthly" amount of the quarterly tax it ultimately pays to that one State will be *de minimis*, likely less than one-half of one percent of CSXT's overall fuel cost. And, through the true-up process, the net quarterly amount of fuel taxes reported to the Board will accurately reflect the tax actually paid.

D. Reported Fuel Surcharge Revenues Will Lag Behind Fuel Costs.

Beginning on April 23, 2007, CSXT's fuel surcharge for a given period will be based upon the EIA highway diesel fuel index for two periods (months) earlier. This time gap is attributable to the fact that the fuel cost index for a month (say January) is not published by EIA until sometime the following month (February in this example), whereupon CSXT provides at least 20 days advance notice of any change in the fuel surcharge, making it effective in the next month (March in this example). While this inherent timing lag is appropriate and acceptable under GAAP, it could cause misleading or confusing comparisons of fuel cost and fuel surcharge revenue for the same reporting period. In a period of rapidly changing fuel prices, reported fuel costs and reported fuel surcharge revenues for a period may not be directly correlated due to the two-month lag between a change in fuel cost and the reflection of that change in CSXT's fuel surcharge. This lag means that care must be exercised in comparing a static "snapshot" of fuel costs with fuel surcharges for any single period.

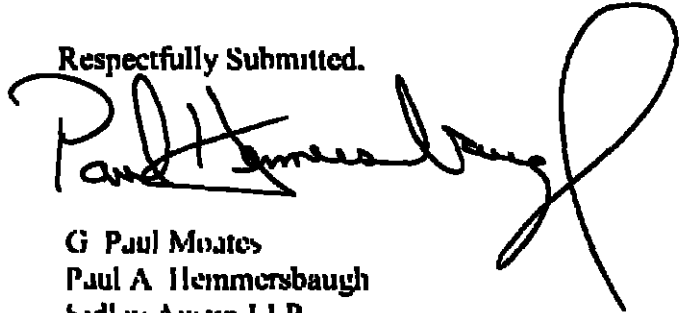
E. More Time May be Needed to Complete and Submit Reports Following the End of a Period, and a 30-Day Deadline Would Make Reporting More Efficient.

Based upon its initial analysis, CSXT believes it would be able to provide fuel surcharge reports substantially complying with the proposed rules within 20 days after the end of the most recently closed reporting period. CSXT suggests, however, that a 30-days-after-the-end-of-the-period deadline for fuel surcharge reporting would be more consistent with the Board's other reporting deadlines. Because other carrier reports to the Board are due 30 days after the end of a period, a 30-day deadline would be more efficient and would facilitate simultaneous filing of the fuel surcharge report with a carrier's other reports.

If the Board nonetheless decides to maintain a shorter deadline for fuel surcharge reports, it should not make the deadline any shorter than the proposed 20 days after the end of a period. Meeting the tight 20-day deadline will require CSXT to devote additional resources to Board reporting, and any shorter period for reporting the requested fuel information would be unduly burdensome. As with any new project, it is possible that CSXT may encounter unanticipated difficulties or delays in gathering and analyzing the data necessary to provide the proposed reports, particularly in the first few reporting periods. If such difficulties were to arise, CSXT might be required to seek additional time to submit those reports. CSXT's current assessment, however, is that it would be able to meet the proposed 20-day deadline for reporting the prior period's fuel cost and revenue information.

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Respectfully Submitted.

A large, stylized handwritten signature in black ink, which appears to read "Paul A. Hemmersbaugh". The signature is written over the typed name and extends to the right.

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Attorneys for CSX Transportation, Inc.

Dated April 2, 2007

DL 1429-01v2

Certificate of Service

I hereby certify that on this second day of April, 2007, I caused copies of the foregoing Comments of CSX Transportation, Inc Regarding Proposed Fuel Surcharge Reporting Rules to be served, via first-class mail or more expeditious method of delivery, upon all parties of record



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